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U.S. Department of Homeland Security  
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Washington, DC 20529



U.S. Citizenship  
and Immigration  
Services

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[REDACTED]

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17 2007

FILE:

[REDACTED]

Office: VERMONT SERVICE CENTER

Date: 1/17/07

[EAC 03 205 51563]

IN RE:

Applicant:

[REDACTED]

APPLICATION:

Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:

[REDACTED]

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

Robert P. Wiemann, Chief  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office (AAO) on appeal. The appeal will be dismissed.

The applicant is a native and citizen of Honduras who is applying for Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director denied the application because the applicant failed to establish she was eligible for late registration.

On appeal, the applicant submits a brief statement and resubmits documentation already contained in the record.

As stated in 8 C.F.R. § 244.1, "register" means "to properly file, with the director, a completed application, with proper fee, for [TPS] during the registration period designated under section 244(b) of the Act."

The record reveals that the applicant filed a first Form I-821, Application for Temporary Protected Status, on February 25, 1999, during the initial registration period (EAC 99 177 50839). That application was denied on January 8, 2003, for failure to respond to a request for evidence to establish her eligibility for TPS. Since the application was denied due to abandonment there was no appeal available; however, the applicant could have filed a request for a motion to reopen within 30 days from the date of the denial. The applicant did not file a motion to reopen during the requisite timeframe.

The applicant filed the instant Form I-821 on June 19, 2003. The director denied this application because it was filed outside of the initial registration period. While the director found the applicant ineligible for TPS because she had failed to establish eligibility for late registration, the director's decision did not fully explain the entire basis for denial.

Any Form I-821 application subsequently submitted by the same applicant after an initial application is filed and a decision on that application is rendered, must be considered as either a request for annual re-registration or as a new filing for TPS benefits. If an applicant is filing an application for annual re-registration, a previous grant of TPS must have been afforded the applicant, as only those individuals who are granted TPS must re-register annually. In addition, the applicant must continue to maintain the conditions of TPS eligibility. 8 C.F.R. § 244.17.

Since the applicant's initial Form I-821 was denied on January 8, 2003, the instant application cannot be considered as an application for annual re-registration. This Form I-821 application can only be considered as a new filing for TPS benefits under the provisions of late registration, since the application was filed outside of the initial registration period.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an applicant who is a national of a foreign state designated by the Attorney General is eligible for Temporary Protected Status only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign state designated under section 244(b) of the Act;

- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;
- (c) Has continuously resided in the United States since such date as the Attorney General may designate;
- (d) Is admissible as an immigrant except as provided under section 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f) (1) Registers for TPS during the initial registration period announced by public notice in the *Federal Register*, or
  - (2) During any subsequent extension of such designation if at the time of the initial registration period:
    - (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;
    - (ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;
    - (iii) The applicant is a parolee or has a pending request for reparole; or
    - (iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.
- (g) Has filed an application for late registration with the appropriate Service director within a 60-day period immediately following the expiration or termination of conditions described in paragraph (f)(2) of this section.

Persons applying for TPS offered to Hondurans must demonstrate that they have continuously resided in the United States since December 30, 1998, and that they have been continuously physically present since January 5, 1999. The initial registration period for Hondurans was from January 5, 1999, through August 20, 1999. As previously indicated, the instant application was filed on June 19, 2003, three years and ten months after the initial registration period had ended.

To qualify for late registration, the applicant must provide evidence that during the initial registration period he or she fell within at least one of the provisions described in 8 C.F.R. § 244.2(f)(2) above.

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by CIS. 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

On August 7, 2003, the applicant was requested to submit evidence establishing her eligibility for late registration as set forth in 8 C.F.R. § 244.2(f)(2). The applicant was also requested to submit evidence of her qualifying continuous residence and continuous physical presence in the United States during the requisite time periods. The applicant, in response, provided documentation relating to her residence and physical presence.

The director determined that the applicant had failed to establish she was eligible for late registration and denied the application on February 19, 2004.

On appeal, the applicant states that she first filed a TPS application during the initial registration period. In support of the appeal, the applicant submits photocopies of Employment Authorization Documents issued to her as a TPS applicant.

The record confirms that the applicant filed the instant Form I-821 after the initial registration period had expired. Since the applicant's first Form I-821 was denied, the instant Form I-821 cannot be considered as an application for annual re-registration. The instant application can only be considered as a new filing for TPS benefits under the provisions of late registration, since the application was filed outside of the initial registration period. In this case, the applicant has not submitted any evidence to establish that she has met any of the criteria for late registration described in 8 C.F.R. § 244.2(f)(2). Consequently, the decision to deny the application for Temporary Protected Status will be affirmed.

It is noted that CIS records reflect that there is another alien registration file, [REDACTED] relating to the applicant having previously been placed under deportation proceedings in 1994.

An alien applying for Temporary Protected Status has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has failed to meet this burden.

**ORDER:** The appeal is dismissed.